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UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE

ACCESS TO ADVANCED HEALTH  
 INSTITUTE,

Plaintiff,

v.

PATRICK SOON-SHIONG, M.D. and CHAN  
 SOON-SHIONG FAMILY FOUNDATION,

Defendants.

Case No.

**VERIFIED COMPLAINT FOR  
 DAMAGES AND DECLARATORY AND  
 INJUNCTIVE RELIEF FOR:**

- (1) BREACH OF FIDUCIARY DUTY  
 (against Dr. Soon-Shiong)**
- (2) DECLARATORY RELIEF  
 (against Dr. Soon-Shiong)**
- (3) BREACH OF CONTRACT  
 (against Chan Soon-Shiong Family  
 Foundation)**

**JURY TRIAL DEMANDED**

Plaintiff Access to Advanced Health Institute (“AAHI”), by and through its undersigned  
 counsel, for its complaint in this action alleges as follows:

**I. INTRODUCTION**

1. This action involves the improper efforts of a Los Angeles billionaire, Defendant  
 Dr. Patrick Soon-Shiong, to exert control and influence over the board of a Seattle-based nonprofit  
 biotech research institute, AAHI. Through his actions, Dr. Soon-Shiong seeks to further his  
 personal interests—and to avoid many millions of dollars in obligations he incurred through  
 contracts between his affiliated entities and AAHI—at AAHI’s expense. Despite obvious conflicts

VERIFIED COMPLAINT - 1

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1 of interest that preclude him from doing so, Dr. Soon-Shiong continues to purport to act as the  
2 Chair of AAHI's board of directors in addressing these issues and in seeking to prevent AAHI's  
3 management and independent directors from doing so.

4         2. AAHI's annual budget and financial viability depend, in substantial part, on long  
5 term contracts with entities affiliated with Dr. Soon-Shiong under which AAHI is owed more than  
6 \$25 million this year. Those contracts are with Dr. Soon-Shiong's family foundation, the  
7 Defendant Chan Soon-Shiong Family Foundation (the "Foundation"), and a biotech company,  
8 ImmunityBio, of which Dr. Soon-Shiong is the Founder, Executive Chairman, Global Chief  
9 Scientific and Medical Officer, and largest shareholder.

10         3. Dr. Soon-Shiong has a direct and obvious conflict of interest between his role and  
11 duties as an AAHI director and his financial interest in the contracts that support AAHI's research  
12 initiatives. Despite this clear conflict, Dr. Soon-Shiong is seeking to orchestrate AAHI board  
13 actions that would prevent AAHI from collecting the millions of dollars it is owed. Even though  
14 his Foundation is more than five months past due on its \$8 million payment obligation for this  
15 year, Dr. Soon-Shiong has repeatedly demanded that AAHI "immediately" reallocate substantial  
16 portions of its resources to further Dr. Soon-Shiong's personal preference to satisfy his separate  
17 commitments to support clinical training of physicians through grants to organizations in South  
18 Africa—which, while a worthy cause, is not related to AAHI's core mission.

19         4. Dr. Soon-Shiong also has prevented AAHI from being supervised under the  
20 direction of the independent board required by its by-laws. Instead, Dr. Soon-Shiong refuses to  
21 even acknowledge the appointment of additional independent directors and has continued to  
22 participate in board decision making on matters directly implicating his financial interests. Dr.  
23 Soon-Shiong has persistently ignored urgent notifications from AAHI's senior officers, General  
24 Counsel, and fellow directors of the financial crisis facing the organization, seeking instead to  
25 convene meetings of an improperly constituted board, or a faction thereof, focused on transferring  
26 AAHI funds to third party organizations. By doing so, Dr. Soon-Shiong has breached and is  
27

1 continuing to breach his duty of loyalty to AAHI and created a corporate governance crisis that  
2 threatens the institute's viability.

3         5. By this action, AAHI seeks declaratory and injunctive relief to avoid the irreparable  
4 harm that otherwise would result from Dr. Soon-Shiong's breaches of fiduciary duty by removing  
5 him from the board based on his conflicts of interest (or, at a minimum, requiring his recusal from  
6 all board matters implicating his interests), and ensuring that AAHI is governed by a truly  
7 independent board. AAHI also seeks to hold the Foundation accountable for its breach of contract.

8         6. AAHI's mission is focused on research and development in the field of infectious  
9 diseases and cancers and cost-effective immune-stimulating technologies, including vaccines and  
10 immunotherapies, for such diseases, with a particular emphasis on innovating platforms and  
11 products that can be made equitably accessible to underserved populations around the world.

12         7. Under the leadership of its CEO, Dr. Corey Casper—a Clinical Professor of  
13 Medicine and Global Health at the University of Washington and an Affiliate Professor in the  
14 Vaccine and Infectious Disease Division at the Fred Hutchinson Cancer Research Center—  
15 AAHI's team of researchers has developed innovative formulations, processes, and products,  
16 including an innovative RNA vaccine platform. AAHI maintains a broad portfolio of intellectual  
17 property rights protecting its inventions, including numerous domestic and international patents  
18 and patent applications. AAHI's research and development—which serve as the foundation for a  
19 robust pipeline of potential products and applications for treating a broad range of infectious  
20 diseases and cancers—has enabled it to garner millions of dollars in annual public and private  
21 grant funding and secure valuable long-term license agreements that support research initiatives.  
22 AAHI is an important partner to vaccine developers around the world, who rely on AAHI's  
23 immune-stimulating adjuvant and other formulations (eg, formulations used to deliver RNA) as an  
24 essential component of their vaccines. These partners including the US Government, with which  
25 AAHI is collaborating on expedited development of a critical vaccine against avian influenza,  
26 which poses an urgent pandemic threat.

1           8.       In March 2022, AAHI emerged from a receivership resulting from financial  
2 struggles under prior management (and changed its name from the Infectious Disease Research  
3 Institute (“IDRI”), in large part because Dr. Soon-Shiong and entities affiliated with him had  
4 agreed to supported AAHI’s research through a series of contracts reached with AAHI and the  
5 Receiver appointed by King County Superior Court. Those contracts include: (a) the Grant  
6 Agreement (**Exhibit 1**) between AAHI and the Foundation, which called for \$26 million in  
7 payments over three years for the support of AAHI’s Seattle operations; (b) the Sponsored  
8 Research Agreement between AAHI and ImmunityBio, under which AAHI receives annual  
9 payments, over a three year term, to support its research efforts; and (c) the License Agreement  
10 between AAHI and ImmunityBio, under which ImmunityBio makes annual payments to license  
11 intellectual property relating to AAHI’s RNA Vaccine Platform. ImmunityBio has publicly  
12 disclosed in its securities filings that the Sponsored Research Agreement requires at least \$2  
13 million in annual payments and that the License Agreement requires it to pay an annual \$5.5  
14 million license maintenance fee (subject to a right to terminate the agreement early upon paying a  
15 one-time \$10 million termination fee).

16           9.       In recognition of both his substantial support of AAHI and his extensive experience  
17 and qualifications relating to AAHI’s research and product development mission, Dr. Soon-Shiong  
18 was made the Chair of AAHI’s Board of Directors. Upon confirming his \$26 million commitment  
19 to support AAHI’s research initiatives, Dr. Soon-Shiong proclaimed that “AAHI has developed  
20 next-generation technology that through various approaches, including a mix-and-match vaccine  
21 regimen, can trigger all lines of immunological defense and reach all areas of the world, including  
22 low resource areas.” [https://www.aahi.org/press-release/aahi-receives-26-million-donation-from-](https://www.aahi.org/press-release/aahi-receives-26-million-donation-from-the-chan-soon-shiong-family-foundation-to-further-develop-immune-enhancing-platform-technology)  
23 [the-chan-soon-shiong-family-foundation-to-further-develop-immune-enhancing-platform-](https://www.aahi.org/press-release/aahi-receives-26-million-donation-from-the-chan-soon-shiong-family-foundation-to-further-develop-immune-enhancing-platform-technology)  
24 [technology](https://www.aahi.org/press-release/aahi-receives-26-million-donation-from-the-chan-soon-shiong-family-foundation-to-further-develop-immune-enhancing-platform-technology).

25           10.       Despite his contractual commitment to support AAHI’s research and product  
26 development, Dr. Soon-Shiong has sought to force AAHI to reallocate a substantial portion of its  
27 resources to support other activities that are outside AAHI’s mission, expertise, and skills.

Specifically, Dr. Soon-Shiong seeks to require AAHI to transfer millions of dollars to unrelated institutions in South Africa, to support medical doctors in South Africa (where Dr. Soon-Shiong was born and, on information and belief, maintains dual citizenship) and, although this has been unclear, perhaps Botswana. AAHI management and its independent directors have repeatedly sought clarity on the parameters of Dr. Soon-Shiong's frequently shifting requests and to reach a compromise under which AAHI would devote millions of dollars towards supporting oncology programs in Southern Africa in a manner consistent with its mission and fiscal obligations, but Dr. Soon-Shiong was not satisfied. Ultimately, Dr. Soon-Shiong caused the Foundation to default on its \$8 million payment obligation due in March 2024, thereby imperiling AAHI's ability to meet its board-approved budget for the year. Thereafter, ImmunityBio, which was already in arrears with respect to its \$2 million payment obligation under the Sponsored Research Agreement, defaulted on its \$5.5 million payment obligation under the License Agreement. ImmunityBio has also repudiated any further payment obligation under the License Agreement—which, under the License Agreement, triggers a \$10 million termination fee.<sup>1</sup>

11. Most recently, Dr. Soon-Shiong has refused to recuse himself from AAHI board decision making with respect to the enforcement of the Grant Agreement and refused to recognize the appointment of additional independent directors to serve on AAHI's board. Instead, Dr. Soon-Shiong is seeking to exert control over the board to thwart AAHI's efforts to recoup the many millions of dollars its owed under its contracts with Dr. Soon-Shiong's affiliated entities, the Foundation and ImmunityBio, which are essential to AAHI's sustainability. Dr. Soon-Shiong simultaneously seeks to force AAHI to funnel existing funds paid under the Grant Agreement to organizations in South Africa based on the separate commitments he had personally made to such organizations rather than any independent assessment by AAHI and its board as to whether these initiatives were consistent with its organizational mission and objectives. In effect, Dr. Soon-Shiong is seeking to direct AAHI to divert its resources and jeopardize its ability to provide the

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<sup>1</sup> AAHI's agreements with ImmunityBio call for alternative dispute resolution, and AAHI hopes to pursue its rights under those agreements in accordance with the agreed-upon dispute resolution process.

1 public benefit for which it is incorporated as a nonprofit institution to satisfy his separate  
2 obligations. And he is doing so while continuing to profess that he is acting as a fiduciary who is  
3 duty-bound to act in the best interests of AAHI. Dr. Soon-Shiong's ability to function as an AAHI  
4 director and fulfill his duties to the organization are, in fact, completely compromised by his  
5 conflicts of interest.

6 12. Dr. Soon-Shiong maintains that there somehow is no conflict of interest in his  
7 participating in AAHI Board decision making relating to the enforcement of AAHI's contract with  
8 the Foundation, and that he is not required to recognize the newly appointed AAHI directors. As  
9 a result, there is a current dispute regarding the composition of the AAHI board and the authority  
10 of Dr. Soon-Shiong and other AAHI directors that is impeding the Board's ability to function and  
11 imperiling the organization's viability.

12 13. If Dr. Soon-Shiong would rather focus his energy on training medical personnel in  
13 South Africa than on AAHI's mission, he is free to resign from the AAHI board and to make  
14 whatever direct contributions he wants to make to organizations in that country—but he still must  
15 ensure that the Foundation satisfies its \$8 million payment obligation for 2024. Alternatively, if  
16 Dr. Soon-Shiong wants to remain on the AAHI board, and to work with AAHI's other directors  
17 and management to develop programs through which AAHI could direct additional resources  
18 towards supporting healthcare initiatives in Africa, he must recuse himself from all board decision  
19 making with respect to AAHI's contracts with the Foundation and ImmunityBio. But Dr. Soon-  
20 Shiong's fiduciary obligations to AAHI prevent him from continuing to participate in board  
21 decision making and interfering with AAHI management's ability to protect and preserve its rights  
22 under those contracts.

23 14. Under the Washington Non-Profit Corporation Act, a Court may review corporate  
24 actions to determine their validity and make such orders as may be just and proper to ensure that  
25 corporate actions occur only in accordance with the requirements of the law. RCW 24.03A.966  
26 Through this action, AAHI seeks injunctive and declaratory relief that would allow it to avoid  
27 irreparable harm by ensuring that it is governed by the independent board required by its by-laws

1 and preventing Dr. Soon-Shiong from pursuing corporate actions that are fundamentally  
2 inconsistent with his fiduciary duties to AAHI and the best interests of AAHI. AAHI also seeks to  
3 recover the remaining \$8 million AAHI is owed under the Grant Agreement.

## 4 **II. PARTIES**

5 15. Plaintiff AAHI is a Washington non-profit organization with its principal place of  
6 business in Seattle, Washington.

7 16. Defendant Dr. Patrick Soon-Shiong is an individual who a citizen and resident of  
8 California. On information and belief, Dr. Soon-Shiong holds dual citizenship with the United  
9 States and South Africa. Since immigrating to the United States after pursuing his education in  
10 South Africa and Canada, Dr. Soon-Shiong has enjoyed a long and distinguished career in various  
11 medical and business endeavors—including as the inventor of the cancer drug Abraxane, as a  
12 professor at various universities, as a transplant surgeon, as a medical researcher, and as a founder  
13 and investor in various companies, and as the owner and executive chairman of the *Los Angeles*  
14 *Times* and a minority owner of the Los Angeles Lakers. He is widely reported to be a multi-  
15 billionaire.

16 17. Defendant Chan Soon-Shiong Family Foundation is a Delaware nonstock  
17 corporation and private charitable foundation with its principal place of business in California.

## 18 **III. JURISDICTION, VENUE AND STANDING**

19 18. This matter is within this Court's diversity jurisdiction under 28 U.S.C. § 1332  
20 because AAHI is a citizen of Washington, the defendants are citizen of States other than  
21 Washington, and the amount in controversy exceeds \$75,000.

22 19. The court has personal jurisdiction over Dr. Soon-Shiong and his Family  
23 Foundation because Dr. Soon-Shiong serves on the board of directors of AAHI, a Washington  
24 non-profit corporation located in Washington, and he has regularly participated in meetings of  
25 AAHI's board of directors, and in doing so has acknowledged that he acts on behalf of the  
26 Foundation. Dr. Soon-Shiong's family Foundation, for which Dr. Soon-Shiong serves as the  
27 Chairman, entered an Amended and Restated Memorandum of Understanding whereby it agreed



1 to enter into the Grant Agreement and thereby enable AAHI to emerge from receivership in King  
2 County, Washington; contracted to deliver \$26 million over three years to AAHI in Washington;  
3 and has regularly transacted and communicated with AAHI representatives with respect to the  
4 Grant Agreement and the payments required thereunder. Both Dr. Soon-Shiong and the  
5 Foundation have substantial contacts with Washington.

6         20. Venue is proper in this District because AAHI's principal place of business is in  
7 this District, because many of the events at issue in this case took place in this District, because  
8 many of the likely witnesses (including AAHI's employees) reside in this District, and because  
9 much of the evidence (including AAHI's business records), is located in this District.

10         21. Under the Washington Non-Profit Corporation Act, RCW 24.03A.966, directors  
11 and officers whose rights and duties may be affected by corporate action, or their delegates, may  
12 petition for a judicial determination of the validity of that action, and the Court may make such  
13 orders as are just and proper with respect to the validity of the challenged corporate action. AAHI's  
14 President and CEO and director, Dr. Corey Casper; its independent director Dr. Edward Mocarski,  
15 an Emeritus Professor of Microbiology & Immunology at the Emory University School of  
16 Medicine and former Professor of Microbiology & Immunology and Associate Dean of Research  
17 at Stanford University; and its General Counsel and Chief Strategy Officer, Candice Decaire, have  
18 authorized the filing of this action in their capacities as AAHI directors and officers and delegated  
19 to the undersigned counsel the authority to bring it to determine the invalidity of corporate actions  
20 that Dr. Soon-Shiong has purported to undertake, the duty of Dr. Soon-Shiong to recuse himself  
21 from matters in which he has a conflict of interest, and the rights of appointed independent  
22 directors of AAHI to participate in board decision making notwithstanding Dr. Soon-Shiong's  
23 efforts to exclude them.



1 **IV. FACTUAL ALLEGATIONS**

2 **A. *AAHI's History, its Research and Development Mission, and its Emergence***  
 3 ***from Receivership in 2022***

4 22. AAHI is a Seattle-based non-profit biotech research institute focused on creating  
 5 sustainable, cost-effective, and practically accessible immunotherapies.

6 23. Until March 2022, AAHI was known as the Infectious Disease Research Institute  
 7 ("IDRI"). IDRI was founded in 1993. With funding support from the Bill & Melinda Gates  
 8 Foundation, in collaboration with the federal government, and under the leadership of prior  
 9 management, IDRI focused on the research and development of vaccines designed to treat  
 10 tuberculosis, malaria, and other infectious diseases that had not received funding and attention  
 11 proportionate to their severe impacts on human health throughout the world.

12 24. Despite promising results from its long-term research initiatives, IDRI struggled  
 13 financially under the leadership of prior management. In January 2020, IDRI voluntarily entered  
 14 a court-administered receivership, and Shelly Crocker LLC was appointed as the receiver by the  
 15 King County Superior Court.

16 25. The Receiver worked with AAHI's current management team, including its  
 17 President CEO (and also a member of its board of directors), Dr. Corey Casper, its Chief Strategy  
 18 Officer & General Counsel Candice Decaire, and its Chief Financial and Operations Officer, Jerry  
 19 Kuo, to establish a strategy that would allow the organization to satisfy its prior creditors and  
 20 obtain relief from outstanding debts, secure long-term funding, emerge from receivership, and  
 21 develop a long-term plan to ensure the organization's viability and continuation of its innovative  
 22 science and broad range of research initiatives.

23 26. In 2021, while AAHI was in receivership the Receiver learned that Dr. Soon-  
 24 Shiong was potentially interested in AAHI's vaccine technology. At the time, AAHI management  
 25 and the Receiver were considering various alternative strategies for emerging from receivership,  
 26 including a merger with another entity or the identification of one or more financial sponsors. Dr.  
 27 Soon-Shiong's interest in funding AAHI and working together with AAHI management on its

1 research and development initiatives was attractive for various reasons, including the fact that Dr.  
2 Soon-Shiong and Dr. Casper shared an interest in making vaccines and cancer treatments more  
3 accessible and affordable throughout the world, including in sub-Saharan Africa.

4 27. The discussions between the Receiver, Dr. Soon-Shiong, and Dr. Casper in 2021  
5 led to an initial Binding Memorandum of Understanding dated May 14, 2021, which was  
6 superseded by an Amended and Restated Memorandum of Understanding (“MOU”) dated January  
7 7, 2022. In the MOU (a copy of which is attached as **Exhibit 2**), which was signed by the Receiver,  
8 Dr. Soon-Shiong, and Dr. Casper, the parties confirmed their intent to enter “Definitive  
9 Agreements” governing the Foundation’s commitment to provide AAHI with \$26 million in  
10 funding over three years. The MOU also described the plans for the organization to change its  
11 name to AAHI, to adopt new by-laws, to appoint a new board of directors, and to seek an order  
12 approving the discharge of the Receiver and emergence from Receivership. In the MOU, the  
13 parties stated that they intended for AAHI to “be part of a cooperative ecosystem of Foundation-  
14 funded or other entities, including at least [AAHI] and one or more South African Foundation-  
15 funded or other entities, focused on pandemic preparedness and rapid response (herein, the  
16 “Pandemic Preparedness Alliance”) and a Global Cancer Initiative.” MOU ¶ 10. The MOU  
17 contemplated that a “joint steering committee” under the leadership of Dr. Soon-Shiong and Dr.  
18 Casper would develop the plans for those initiatives. *Id.* The MOU did not specify any particular  
19 amount of AAHI funds, including the AAHI funds to be paid by the Foundation pursuant to the  
20 Grant Agreement, which would be devoted to initiatives in South Africa, or the timing for pursuing  
21 any such initiatives.

22 28. Dr. Soon-Shiong invited Dr. Casper to join him at a January 2022 event in Cape  
23 Town, South Africa, at which Dr. Soon-Shiong presented the concept of what he described as the  
24 “AAAH Coalition”—also referred to, in various media materials, as “Africa’s Access to Advanced  
25 Healthcare Coalition” or the “Coalition to Accelerate Africa’s Access to Advanced Healthcare.”  
26 In his presentation and the accompanying materials put together by his media relations team, Dr.  
27 Soon-Shiong described a concept under which AAHI would be part of a network of sibling

1 healthcare institutes in South Africa, Botswana, Ghana, Kenya, and Uganda. AAHI always  
2 understood that outside funding for these institutes would be provided by Dr. Soon-Shiong or the  
3 Foundation, not AAHI. While AAHI was intrigued by the long-term prospect of collaborating with  
4 the proposed network of related institutions described by Dr. Soon-Shiong, it had neither the  
5 funding nor the personnel or skillset to support and monitor the operations of entities in other  
6 countries, and Dr. Soon-Shiong did not thereafter advance any plans for how this network of  
7 institutions might be established.

8         29. In February 2022, after the parties had finalized the terms of the contracts under  
9 which Dr. Soon-Shiong and his affiliated entities would provide financial support to AAHI, the  
10 Receiver submitted a Final Report to the King County Superior Court seeking, *inter alia*, the  
11 termination of the receivership, the appointment of AAHI's new board of directors, and the  
12 adoption of AAHI's current by-laws. In support, the Receiver noted that IDRI had "conduct[ed]  
13 successful outreach to long term strategic partners, culminating in significant new licenses with  
14 Amyris, ImmunityBio, and Janssen which will provide revenue streams for years to come, and that  
15 "IDRI has also secured a funding arrangement for the future with the Chan Soon-Shiong Family  
16 Foundation, which has pledged \$26 million in funding over the first three years after IDRI's exist  
17 from receivership." Receiver's Final Report at 2. The Receiver further noted "that with the right  
18 pieces in place, IDRI could pay its debts and chart a new path outside Receivership." *Id.* at 6.  
19 Finally, the Receiver concluded that "IDRI will be positioned and capitalized, to continue its  
20 mission of working to research and create vaccines and therapies for infectious diseases, to benefit  
21 people across the globe." *Id.*

22         30. In March 2022, AAHI announced that it had exited receivership and resumed  
23 operations under its current name. In conjunction with its emergence from receivership AAHI  
24 adopted its Amended and Restated By-Laws (**Exhibit 3**). The By-Laws call for a board of directors  
25 consisting of at least seven directors and require at least five independent directors.

26         31. Since emerging from receivership, AAHI has collaborated with various partners,  
27 including industry, non-governmental organization, academic, and governmental partners, to

pursue the development of affordable and effective vaccines and immunotherapies to prevent and treat infectious diseases and cancers. By the end of 2023, thirty-eight vaccine candidates based on AAHI's platform technology had advanced to early-stage clinical trials and thirteen vaccines based on AAHI's platform technology were being tested in active clinical trials. Research conducted by AAHI's team of scientists was published in peer-reviewed journals, and their innovations resulted in the award of new patents recognizing their inventions and protecting its intellectual property rights. AAHI's cutting edge science and product development enabled it to obtain millions of dollars in new grants and contracts with partners in the federal government, and to secure new license agreements with industry partners, including ImmunityBio and 3M. From an operational standpoint, AAHI was—and remains—well-positioned to play a vital role in developing and implementing solutions to many of the world's most pressing healthcare problems.

***B. AAHI's Contracts with the Foundation and ImmunityBio***

32. When AAHI emerged from receivership it appeared that Dr. Soon-Shiong and entities affiliated with him would play a critical role in the development and implementation of vaccines and treatments based on AAHI's technology. Through a series of contracts, those entities committed to support AAHI with millions of dollars in annual funding to support AAHI's research and development mission. Those contracts include: (a) the Grant Agreement between AAHI and the Foundation, which called for \$26 million in payments over three years; (b) the Sponsored Research Agreement between AAHI and ImmunityBio, under which AAHI receives was to receive at least \$2 million per year to support its research efforts; and (c) the License Agreement between AAHI and ImmunityBio, under which ImmunityBio was to pay \$5.5 million per year to license intellectual property relating to AAHI's RNA Vaccine Platform.

33. The Grant Agreement (Exhibit 1) was executed on January 7, 2022, by Dr. Soon-Shiong, on behalf of the Foundation, by the Court-appointed Receiver, and by Dr. Casper, AAHI's CEO. In the Grant Agreement, "Each Party agrees that the other shall have full contractual and equitable standing to enforce the terms of the Agreement to the fullest extent permitted by the laws of the State of California." Grant Agreement ¶ 8.5. (The Grant Agreement is governed by

1 California law, but it does not contain any forum selection clause or dispute resolution mechanism  
2 that would limit AAHI's ability to enforce it in this Court).

3 34. Under the Grant Agreement, the Foundation made a "Multi-Year Grant  
4 Commitment" to pay AAHI \$26 million between 2022 and 2024. *Id.* ¶¶ 1.1-1.2 The first two \$9  
5 million installments were to be paid in March 2022 (ten business days after the discharge of the  
6 receivership, adoption of AAHI's new by-laws, and appointment of AAHI's board) and March  
7 2023, and a third \$8 million installment was due in March 2024. *Id.* The Grant Agreement specified  
8 that AAHI was to "use the funding provided by this Agreement primarily to support active research  
9 development in the field of infectious diseases and cancers . . . ." *Id.* ¶ 2.1. The Grant Agreement  
10 is an integrated contract, providing that it represented the Parties' "entire agreement" and  
11 "supersede[d] all prior communications and understandings." *Id.* ¶ 8.9. Nothing in the Grant  
12 Agreement requires the use of any portion of the required funds for projects in Africa.

13 35. AAHI's agreements with ImmunityBio are likewise fully integrated long-term  
14 contracts. Those agreements are governed by Washington law. In the event of any dispute, they  
15 call for pre-litigation mediation followed by arbitration if the mediation is unsuccessful. Although  
16 the agreements state that their financial terms are confidential, ImmunityBio has disclosed them  
17 publicly in its securities filings, and AAHI has no objection to its having done so. The Sponsored  
18 Research Agreement calls for ImmunityBio to pay AAHI at least \$2 million per year for three  
19 years to support its research, and the License Agreement requires ImmunityBio to pay AAHI a  
20 \$5.5 million annual license maintenance fee each year through 2030. ImmunityBio has a right to  
21 terminate the License Agreement, subject to a one-time \$10 million termination fee.

22 36. AAHI's agreements with the Foundation and ImmunityBio account for a  
23 substantial portion of its operating budget, but AAHI also receives significant funding from other  
24 sources, including, most prominently, the federal government. Those sources include grants from  
25 governmental entities such as NIH, BARDA, and the Department of Defense, as well as other  
26 funders and licensees. Much of AAHI's funding depends on its continuing to pursue vaccine and  
27

1 immunotherapy research and development work in accordance with its mission. If AAHI instead  
2 diverted resources to other purposes, it would jeopardize much of its funding.

3 ***C. The Parties' Discussion of Using AAHI Resources to Fund Healthcare***  
4 ***Initiatives in Africa***

5 37. Both before and since his affiliated entities entered into their contracts with AAHI,  
6 and since joining the AAHI board as its Chair in 2022, Dr. Soon-Shiong has expressed a desire for  
7 AAHI to support various medical initiatives in Africa. Because AAHI's mission includes  
8 developing affordable and accessible vaccines and cancer treatments, and because of acute  
9 healthcare demands in Africa, AAHI shares an interest in developing applications for its work in  
10 Africa. AAHI management has repeatedly sought to work with Dr. Soon-Shiong to identify  
11 appropriate projects in Africa that are consistent with its mission.

12 38. Even in the absence of an agreed plan with Dr. Soon-Shiong or the AAHI Board of  
13 Directors, AAHI has been active in advancing equitably accessible vaccines and cancer therapies  
14 for sub-Saharan Africa. AAHI has supported researchers at the University of Cape Town in  
15 advancing new vaccines for tuberculosis, using AAHI's novel vaccine formulation and innovative  
16 processes for creating an inhalable form of the vaccine. AAHI has supported a group of researchers  
17 in sub-Saharan Africa who are committed to advancing new vaccines for Africa (the  
18 "BRILLIANT" Coalition) by providing its novel formulations for use in effective, affordable and  
19 administerable vaccines. AAHI has expanded its relationship with its partner and licensee Afrigen  
20 Biologics and Vaccine, based in Capetown, South Africa, to develop and expand manufacturing  
21 and availability of vaccines in sub-Saharan Africa. AAHI's CEO and director Dr. Casper  
22 continues to conduct research on the prevention, early detection, and treatment of cervical cancer  
23 in Uganda and has advised the governments of Uganda and Botswana on resource-appropriate  
24 approaches to cancer in sub-Saharan Africa.

25 39. At AAHI's 2023 Annual Meeting, which was held in September 2023 and attended  
26 by Dr. Soon-Shiong via Zoom, Dr. Soon-Shiong requested that AAHI devote the entirety of the  
27 Foundation's \$9 million payment for 2023 towards training doctors in South Africa and Botswana



1 to staff cancer treatment centers. The request was impracticable for various reasons, including  
2 financial feasibility, given that AAHI's 2023 budget had been completed and approved by the  
3 board and did not contemplate this additional expenditure. After submitting the request Dr. Soon-  
4 Shiong recused himself from any vote on the request. The board ultimately tabled the request for  
5 further consideration and discussion.

6 40. Thereafter Dr. Casper and members of AAHI's board continued to explore pursuing  
7 projects in Africa, including South Africa. On November 6, 2023, Dr. Casper, Ms. Decaire, and  
8 AAHI board members Dr. Glenda Gray and Dr. David Kerr spoke with Dr. Soon-Shiong and  
9 agreed that Dr. Casper would work with Dr. Kerr and Dr. Gray to formulate a plan for supporting  
10 cancer research in sub-Saharan Africa. During that call Dr. Soon-Shiong acknowledged that  
11 training physicians was beyond the scope of AAHI's activities and capabilities, and that he already  
12 supported training doctors in South Africa through grants to the South African Medical Research  
13 Council ("SAMRC"), of which, at that time, AAHI director Dr. Glenda Gray was the Director.

14 41. At its December 2023 board meeting, which Dr. Soon-Shiong did not attend, the  
15 AAHI board of directors approved a resolution under which AAHI management was directed to  
16 take steps towards establishing a formal collaboration with SAMRC to improve cancer diagnosis  
17 and care and establish clinical trials in South Africa. AAHI management remains interested in  
18 pursuing that initiative, and allocated funds in its 2024 budget towards doing so, but Dr. Soon-  
19 Shiong has since again pivoted towards other plans.

20 42. On February 16, 2024, Dr. Soon-Shiong forwarded to AAHI management two grant  
21 applications from organizations in South Africa. The applications were initially directed to the  
22 Chan Soon-Shiong Foundation, not AAHI. One sought \$9 million over three years to support  
23 training posts for medical officers and fellows at the Wits University Donald Gordon Medical  
24 Institute ("DGMI"). The other sought an initial \$350,000 plus annual payments of \$120,000 per  
25 year to fund DGMI's urology treatment center in Johannesburg.

26 43. On February 21, 2024, Dr. Soon-Shiong provided AAHI's General Counsel, Ms.  
27 Decaire, with draft resolutions for the board to approve slightly modified versions of the funding



1 proposals he had forwarded on February 16, 2024, as well as a resolution under which the board  
2 would agree that, “[t]o the extent that [any AAHI director] have already taken action” with respect  
3 to the funding requests, “their actions in this regard [would] be and are hereby ratified.” The draft  
4 resolutions apparently were drafted by a South African law firm representing Dr. Soon-Shiong,  
5 Webber Wentzel. In forwarding the proposed resolutions, Dr. Soon-Shiong also copied in-house  
6 lawyers from ImmunityBio, NantWorks (the holding company for another group of companies  
7 controlled by Dr. Soon-Shiong), and the Foundation. Through these requested resolutions Dr.  
8 Soon-Shiong was asking AAHI to fund grant requests that were initially directed to the  
9 Foundation, and to use AAHI resources to fund initiatives in South Africa that Dr. Soon-Shiong  
10 favored instead of AAHI’s own research and development mission.

11 44. On information and belief, one or more of the AAHI directors are affiliated with  
12 entities that would benefit from the South Africa grant applications, or have business relationships  
13 with Dr. Soon-Shiong that may impede their ability to put AAHI’s best interests above other  
14 considerations. However, no director ever recused themselves from AAHI board decision making  
15 with respect to the grant applications.

16 45. At AAHI’s February 27, 2024, board meeting, after discussion of the previously  
17 proposed resolutions, Dr. Soon-Shiong pushed through a new resolution under which AAHI would  
18 provide up to \$3 million per year in funding “for training of specialists and sub-specialists in  
19 Southern Africa in the field of cancer,” with distribution and management of the funds to be  
20 administered by the SAMRC. Dr. Casper and independent AAHI director Edward Mocarski,  
21 Ph.D., as well as from AAHI Chief Strategy Officer and General Counsel Candice Decaire, raised  
22 concerns about whether the proposed grant was consistent with AAHI’s research mission and  
23 whether there had been adequate consideration of conflicts of interest involving Dr. Soon-Shiong  
24 and potentially other board members. The Chair of the Finance Committee of AAHI’s Board made  
25 a presentation of the effect on AAHI’s budget of allocating \$3 million in annual grants to fund  
26 clinicians in Africa, and concluded that, with the \$8 million AAHI was scheduled to receive from  
27 the Foundation in March, AAHI could both fund the requested grants and maintain its planned

1 operations. AAHI's Chief Financial and Operating Officer noted that, without that \$8 million,  
2 funding the \$3 million in annual grants to South Africa would leave AAHI, absent the generation  
3 of additional funding, with no excess cash by 2026. Dr. Soon-Shiong participated in the discussion  
4 of his proposed resolution and voted in favor of it. Five directors, including Dr. Soon-Shiong,  
5 voted for the proposed resolution; Dr. Casper and Dr. Mocarski voting against it.

6 46. Two weeks later, on March 15, 2024, AAHI's board held a special meeting that had  
7 previously been scheduled for voting on Dr. Soon-Shiong's proposed resolution, after the directors  
8 had been able to consider whether it was in AAHI's best interests to transfer such large amounts  
9 of money to fund third-party programs outside AAHI's current mission. (Instead, Dr. Soon-Shiong  
10 had pushed the proposed resolution to a vote during the February meeting.) At the March meeting,  
11 Dr. Soon-Shiong asserted that the prior funding resolution he submitted was not a request from  
12 him or the Foundation, but that he instead was merely a "messenger for independent requests from  
13 South Africa." He further stated that board member Dr. Gray, working together with Dr. Soon-  
14 Shiong's South African lawyer, Robert Appelbaum at Webber Wentzel, would establish an  
15 "independent committee" that would direct the distribution of the funds authorized by the  
16 resolution passed at the February board meeting. When Ms. Decaire again pushed for board  
17 members to make conflict of interest disclosures and stressed the importance of addressing any  
18 conflicts of interest with respect to the resolutions, Dr. Soon-Shiong claimed that he could not  
19 possibly be conflicted. Dr. Soon-Shiong also expressed disappointment that AAHI management  
20 had sought advice from outside counsel regarding conflict of interest and fiduciary duty issues,  
21 proclaiming that "management serves at the pleasure of the Board, not the other way around."

22 47. AAHI's next board meeting was held on June 3, 2024. At that meeting Dr. Soon-  
23 Shiong first claimed that he had always intended for the entirety of the second and third installment  
24 payments required by the Grant Agreement to be used to fund projects in Africa, notwithstanding  
25 the fact that the Grant Agreement itself says no such thing. Thereafter Dr. Casper presented a  
26 proposal for proceeding with the plan adopted through the February board resolution, under which  
27 AAHI would proceed with initiatives to address cancer burdens in Southern Africa by committing

1 up to \$3 million per year. Dr. Casper's plan was unanimously approved by the attending members  
2 of the board. The board thereafter also agreed to form a subcommittee to address the  
3 implementation of the Africa cancer funding initiative presented by Dr. Casper, including the  
4 logistical, governance, and legal issues that would need to be addressed to implement the initiative.

5 48. After the board's discussion of the plan presented by Dr. Casper, the then Chair of  
6 the AAHI board's Governance Committee, Dr. David Kerr (who subsequently resigned from the  
7 board), proposed that the board address the candidacies of several additional independent board  
8 members, including Ann Kwong, Ph.D., and Julie Cherrington, Ph.D, the curriculum vitae for  
9 whom had already been discussed and circulated for the board's review. The board members who  
10 remained at the meeting unanimously approved extending invitations to join the board to four new  
11 candidates who had been recommended by the Governance Committee and discussed in past board  
12 meetings and correspondence. Dr. Kwong and Dr. Cherrington subsequently accepted their  
13 invitations and joined the board. Although Dr. Soon-Shiong was present when Dr. Kerr proposed  
14 that the board address the matter of new independent board members, he thereafter left the meeting  
15 due to another commitment, so did not participate in the discussion or vote on the appointment of  
16 the new independent board members.

17 49. On June 17, 2024, Dr. Soon-Shiong's South African lawyer, Robert Appelbaum,  
18 informed Ms. Decaire by email that he had been "asked to represent the independent members of  
19 the board," and indicated that Dr. Soon-Shiong would be proposing a meeting between himself,  
20 Mr. Appelbaum, Dr. Casper, Ms. Decaire "in the next day or so." Dr. Soon-Shiong never sought  
21 to arrange that meeting. However, Ms. Decaire subsequently spoke with Mr. Appelbaum. During  
22 that conversation Mr. Appelbaum claimed to represent all of the members of the board other than  
23 Mr. Mocarski and Dr. Casper, and agreed with Ms. Decaire that the parties should seek to reach  
24 an amicable resolution of any remaining dispute concerning AAHI's use of the funds granted to  
25 AAHI under the Foundation's Grant Agreement or the distribution of the \$3 million for cancer  
26 research in South Africa authorized by the board. Ms. Decaire subsequently attempted to arrange  
27

1 a follow-up call with Mr. Appelbaum but was unsuccessful in doing so and the two have not spoken  
2 since.

3 50. On June 17, 2024, Ms. Decaire also circulated draft minutes for the June 3, 2024,  
4 board meeting, as well as for the December 2023 and February and March 2024 meetings. Dr.  
5 Soon-Shiong responded by claiming the June minutes were “incomplete” because they did not  
6 reflect an agreement that the \$3 million in funding would be transferred to South Africa  
7 “immediately.” There was never any agreement to transfer those funds “immediately.” Dr. Soon-  
8 Shiong had not by that time—and still has not—made the \$8 million Grant Agreement payment  
9 for 2024 that was, according to the 2024 budget and plan the board adopted at its December 2023  
10 meeting, to be used in part to fund the agreed South African cancer initiative. Moreover, there has  
11 not been any agreement upon the precise transferees for the grant or how AAHI would be able to  
12 ensure that the funds are used for their intended purposes. While AAHI management supports  
13 using \$3 million from its 2024 budget to support cancer initiatives in South Africa, as approved at  
14 the February 2024 board meeting, AAHI cannot responsibly transfer those funds until the  
15 Foundation fulfills its payment obligation, the transferees are agreed upon, and AAHI is able to  
16 work together with the transferees to adopt measures to ensure the funds are disbursed in a manner  
17 consistent with the agreed-upon purpose of addressing cancer in South Africa.

18 51. Dr. Soon-Shiong and his South African lawyer, Mr. Appelbaum, have continued to  
19 press AAHI to transfer \$3 million in South Africa, but neither has provided information needed to  
20 enable AAHI to ensure that the funds would be used for their intended purpose. On June 25, 2024,  
21 Dr. Soon-Shiong asked AAHI to immediately transfer the funds to Mr. Appelbaum but provided  
22 no further information about how the funds would be distributed following any such transfer.  
23 Thereafter, on June 30, 2024, Mr. Appelbaum requested a transfer of the funds to an account held  
24 by a Wits University Foundation in South Africa, and indicated that the funds would then be  
25 allocated among various hospitals and clinics in Africa, with AAHI board member Dr. Glenda  
26 Gray serving on an “oversight panel” that would select the professionals who would receive funds  
27 for training. Indeed, based on recent correspondence to the AAHI board it appears that Dr. Soon-

Shiong or one of his representatives had already promised—without authorization of the AAHI board or organization—to Dr. Sue Tager, CEO of the Wits Donald Gordon Medical Center, that AAHI would send \$3 million this year and for each of the next two years “for training of doctors.”

***D. The Foundation’s Failure to Fulfill its Payment Obligation Under the Grant Agreement***

52. By the end of June 2024, the \$8 million payment from the Foundation owed under the Grant Agreement was four months past due. IBRX had also failed to make both the \$5.5 million payment for 2024 owed under the License Agreement and the \$2 million payment for 2024 owed under the Sponsored Research Agreement. And Dr. Soon-Shiong had not provided any information that would allow AAHI to validate how the \$3 million would be used following any transfer to South Africa or to ensure that it was used for the cancer-related purposes approved by the AAHI board in February 2024. Accordingly, AAHI management decided that it would not authorize the requested transfer of funds to South Africa unless and until those issues could be resolved.

53. Since March 2024, when the Foundation’s \$8 million payment was due, AAHI has repeatedly inquired as to the status of the payment. Dr. Soon-Shiong and others affiliated with the Foundation have, at various times, declined to respond at all, asserted that the payment was somehow conditional on AAHI agreeing to reallocate the funds to South Africa as directed by Dr. Soon-Shiong, or declined to confirm any intention to ever make the required payment. In a July 25, 2024, letter to Dr. Soon-Shiong and Charles Kenworthy, the Executive Vice President of the Foundation, Ms. Decaire again inquired as to the status of the \$8 million payment required by the Grant Agreement and noted that AAHI would need to explore legal options if the payment was not delivered by the end of the month. Dr. Soon-Shiong responded to that letter by asking for copies of the Grant Agreement and a prior Memorandum of Understanding between the parties, and asked that John Quinn, a partner in the Quinn Emanuel Urquhart & Sullivan litigation firm, to be copied on the responsive correspondence. Thereafter Mr. Kenworthy requested that AAHI implement a litigation hold with respect to documents relating to AAHI, the Grant Agreement, and

1 the Foundation. None of this suggested that the \$8 million payment was forthcoming, and indeed  
 2 the Foundation still has not made the required payment.

3 ***E. Dr. Soon-Shiong's Ongoing Efforts to Thwart the Foundation's Payment***  
 4 ***Obligations and Undermine the Independence of AAHI's Board***

5 54. Since failing to ensure that the Foundation fulfilled its payment obligation in March  
 6 2024, Dr. Soon-Shiong has, inexplicably, continued to assert his right to participate in board  
 7 decision making with respect to the Grant Agreement notwithstanding his financial interest in the  
 8 transaction and direct conflict of interest.

9 55. In addition to failing to ensure the \$8 million payment was made—which, in  
 10 accordance with his fiduciary duty of loyalty as an AAHI director he should have done—and  
 11 disavowing any obligation to make it Dr. Soon-Shiong has interfered with AAHI's ability to  
 12 protect its interest and enforce its rights under the Grant Agreement.

13 56. Although Dr. Soon-Shiong acknowledged the “2 new Board members” in  
 14 correspondence of August 5, seeking to schedule a special meeting to discuss “fiduciary duties to  
 15 the organization and to its mission . . . [and] the management of the organization, who serve at the  
 16 pleasure of the board and the furtherance of its mission,” Dr. Soon-Shiong has subsequently taken  
 17 the position that their appointments were invalid. Dr. Soon-Shiong has since excluded Dr. Kwong  
 18 and Dr. Cherrington from purported board meetings and board decision making. Without the  
 19 participation of Dr. Kwong and Dr. Cherrington AAHI does not have the five independent  
 20 directors required by its by-laws.

21 57. Dr. Soon-Shiong has also retained various lawyers who he has represented are  
 22 acting on behalf of the board, even though those lawyers in fact represent Dr. Soon-Shiong and  
 23 affiliated entities. Over the past several weeks Dr. Soon-Shiong has represented that Mr.  
 24 Appelbaum, his personal South African lawyer at Webber Wentzel, and a transactional partner  
 25 from the San Diego office of Wilson Sonsini (a firm that, on information and belief, has  
 26 represented Dr. Soon-Shiong and affiliated entities in various transactional and litigation matters,  
 27 including the defense of claims for alleged breaches of fiduciary duty), have been retained to advise



1 the AAHI board on fiduciary duties and issues pertaining to the Grant Agreement. The AAHI  
2 board, however, has not in fact taken any action to retain either lawyer or had any opportunity to  
3 assess conflicts of interest that may impact any decision to do so. At the same time, Dr. Soon-  
4 Shiong has informed AAHI that he has retained Quinn Emanuel Urquhart & Sullivan, a firm  
5 devoted exclusively to litigation, to represent him and the Foundation in connection with the Grant  
6 Agreement and the Foundation's Executive Vice President has sent a litigation hold to AAHI.

7 58. Dr. Soon-Shiong's retention of litigation counsel abundantly confirms his conflict  
8 of interest with AAHI and the need to recuse himself from all board decision making. Yet Dr.  
9 Soon-Shiong has continued to call purported board meetings and "executive sessions" of subsets  
10 of the board and has purported to communicate with AAHI management on issues pertaining to  
11 the Grant Agreement in his capacity as the chair of the AAHI board.

12 59. In addition to the ongoing dispute with Dr. Soon-Shiong regarding the Foundation's  
13 obligations under the Grant Agreement AAHI is currently involved in a separate dispute with Dr.  
14 Soon-Shiong's affiliated company, ImmunityBio, regarding the License Agreement and the  
15 Sponsored Research Agreement and ImmunityBio's failure to fulfill its payment obligations under  
16 those agreements. Dr. Soon-Shiong is a controlling shareholder of ImmunityBio and serves as its  
17 Executive Chairman and Chief Global Scientific and Medical Officer. Dr. Soon-Shiong has  
18 acknowledged that he is required to recuse himself from AAHI board decision making with respect  
19 to the ImmunityBio contracts due to his conflict of interest. However, by excluding AAHI's new  
20 independent directors, Dr. Kwong and Dr. Cherrington, from participating in AAHI board  
21 meetings, by holding meetings without appropriate notice or the required waiver of the notice  
22 requirement, and by seeking through misrepresentation of the Foundation's Grant Agreement with  
23 AAHI to require AAHI to transfer millions of dollars to third parties without regard for AAHI's  
24 financial sustainability, Dr. Soon-Shiong is thwarting AAHI's ability to protect its interests and  
25 protect its rights under the ImmunityBio contracts.

26 60. In July 2024, Dr. Casper called for a special meeting of the AAHI board to address  
27 the urgent financial crisis for the organization precipitated by the failures of the Foundation and



1 ImmunityBio to fulfill their obligations. Dr. Soon-Shiong also requested a special meeting at which  
2 he wanted Mr. Appelbaum and a Foundation attorney to be invited to make a presentation,  
3 ostensibly about the Foundation's grant to AAHI and transfer of half of the grant money that had  
4 been paid to organizations in South Africa. Ms. Decaire polled repeatedly to accommodate the  
5 special board meeting request by the Chairman, but several board members, including the Chair,  
6 did not provide their availability after several weeks. Ms. Decaire then sought to schedule a special  
7 meeting of the board for August 1, 2024, but Dr. Soon-Shiong indicated he was not available for  
8 a meeting that day (yet subsequently accepted the electronic invite). Accordingly, on August 1,  
9 2024, AAHI management held an informational session, presenting to those board members  
10 available to attend information regarding the state of AAHI's finances and the steps AAHI  
11 management was taking to protect the organization's interests under its contracts, including its  
12 retention of outside litigation counsel. Six (including Dr. Casper) of AAHI's eight board members  
13 attended that presentation.

14 61. Most recently, Dr. Soon-Shiong has made thinly veiled threats to AAHI  
15 management based on their unwillingness to transfer AAHI funds to Africa in accordance with his  
16 directives and purported to call a "special meeting" of AAHI's board of directors, which he initially  
17 set for September 13, 2024, and subsequently rescheduled for 8:30 a.m. Pacific on Tuesday,  
18 August 13, 2024. Although AAHI's by-laws require that "each director" receive notice of any  
19 special meeting at least ten days in advance of the meeting, notice for this proposed meeting was  
20 not delivered until August 8, 2024, five days before the meeting. Dr. Soon-Shiong excluded two  
21 AAHI board members—Dr. Cherrington and Dr. Kwong—from the invitation for this meeting and  
22 indicated that he would not allow them to participate. Dr. Kerr, who previously had resigned from  
23 the board, was invited. Dr. Casper, Dr. Cherrington, and Dr. Kwong all objected in writing to  
24 proceeding with the meeting. Another independent board member, Dr. Ed Mocarski, objected in  
25 writing to the meeting, and to Dr. Soon-Shiong's continued refusal to recuse himself from matters  
26 in which he has conflicts of interest. Ms. Decaire, AAHI's General Counsel, also informed Dr.  
27 Soon-Shiong that the meeting had not been set in accordance with AAHI's by-laws. AAHI's by-

1 laws allow any director to waive the 10-day notice requirement, but at least four AAHI directors  
2 did not waive that requirement for the purported August 13, 2024, meeting. Dr. Soon-Shiong  
3 nonetheless proceeded with the meeting.

4 62. Ms. Decaire attended the initial portions of the August 13, 2024, meeting in her  
5 capacity as AAHI's General Counsel and Corporate Secretary. Dr. Soon-Shiong, Ed Hsu, Dr.  
6 Glenda Gray, and Dr. Raoul Concepcion were the only board members attending the meeting.  
7 Without further advance notice or explanation to the Board, Dr. Soon-Shiong also invited the  
8 Director of Public Relationships from one of his companies, NantWorks, as well as Martin Waters,  
9 the California transactional lawyer from Dr. Soon-Shiong's law firm, Wilson Sonsini. During the  
10 meeting, Mr. Waters took the position that Dr. Kwong and Dr. Cherrington were not yet board  
11 members because notwithstanding the Governance Committee's recommendation of their  
12 appointment, and notwithstanding the Board's unanimous approval of their appointment, there was  
13 not, in his view, a resolution confirming their appointment and a separate resolution authorizing  
14 an increase in the number of directors. However, the AAHI by-laws unambiguously state that the  
15 board shall have "at least seven directors," that at least five directors will be independent, and that  
16 the board "may be increased or decreased from time to time by a Board Vote." By-Laws ¶ 3.1(a).

17 63. Mr. Waters also indicated at the August 13 meeting that Wilson Sonsini had a  
18 conflict of interest and had advised Dr. Soon-Shiong that the board should seek independent  
19 counsel regarding its fiduciary duties and the process for appointing additional board members.  
20 He then proceeded nonetheless to explain to the board members present his interpretation of the  
21 Bylaws and how he believed they applied to the facts and circumstances of the new board  
22 members' appointment (*i.e.*, notwithstanding his acknowledged conflict, he proceeded to provide  
23 legal advice). One director, Mr. Ed Hsu, began to inquire about how to resolve these issues  
24 where different lawyers, such as Mr. Waters and AAHI's General Counsel, disagreed on the  
25 appropriate course of action. Dr. Soon-Shiong then abruptly cut him off and stated that the "board"  
26 would commence an "executive session" and that Ms. Decaire was excused from the meeting.  
27

64. Dr. Soon-Shiong has also indicated that he intends to hold a follow-up meeting of the AAHI board on August 23, 2024, to discuss “next steps,” although he again excluded Dr. Cherrington and Dr. Kwong from the notice and has not invited them to participate in that meeting.

***F. AAHI’s Need for Immediate Relief.***

65. Through his conduct Dr. Soon-Shiong has prevented, and is continuing to prevent, AAHI from having the functioning independent board required by AAHI’s by-laws and Washington law.

66. By continuing to participate in AAHI board decision making despite his clear conflicts of interests, and by refusing to recognize the appointment of AAHI’s additional independent directors, Dr. Soon-Shiong’s conduct, if successful, will prevent AAHI from acting to protect its interests.

67. AAHI’s budgeting needs critically depend on the money owed under its contracts with the Foundation and ImmunityBio. To develop and advance a strategy for protecting its rights under those contracts, AAHI’s board must be able to act independently and free from interference by Dr. Soon-Shiong, who is directly adverse to AAHI.

68. Without immediate relief, AAHI will suffer irreparable harm, including both the loss of millions of dollars it needs to plan for and execute its future operations for the public benefit, as required by its status as a Washington non-profit corporation, and the continued inability to function effectively without the independent oversight required by its by-laws.

**V. CAUSES OF ACTION**

**FIRST CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY  
(Against Dr. Soon Shiong)**

69. AAHI repeats and realleges the allegations set forth in paragraphs 1-65 above as though fully set forth here.

70. Dr. Soon-Shiong is currently serves as a director and as the Chair of AAHI’s board of directors. As such Dr. Soon-Shiong owes fiduciary duties under Washington law that require him to act in the best interests of AAHI, including a duty of care, a duty of loyalty, and a duty of

obedience. See Washington Non-Profit Handbook (2022 ed.), available at <https://www.sos.wa.gov/sites/default/files/2022-09/2022-Nonprofit-Handbook.pdf>.

71. The duty of care requires Dr. Soon-Shiong, like any non-profit director, “to give reasonable care and attention to their responsibilities,” to consider the available materials and information in making decisions, and to seek and rely upon outside independent expert advice regarding organizational matters as need. *Id.* at 15.

72. The duty of loyalty requires Dr. Soon-Shiong, like any non-profit director, to use “independent judgment and act without personal economic conflict.” *Id.*

73. The duty of obedience requires Dr. Soon-Shiong, like any non-profit director, to ensure that AAHI follows its corporate governance policies and abides by its purpose and mission. *Id.*

74. Dr. Soon-Shiong has breached his fiduciary duties to AAHI by deliberately and knowingly, or through gross negligence, committing the following acts:

- (a) Failing to ensure his Foundation, which he controls, fulfills its financial obligations to AAHI;
- (b) Refusing to recuse himself from board decision making regarding the Foundation’s obligations under the Grant Agreement despite his conflicts of interest;
- (c) Actively participating in seeking to force AAHI effectively to modify the terms of the Grant Agreement by conditioning the remaining \$8 million in funding on allocating the previously paid installment of the committed funds as directed by Dr. Soon-Shiong in Africa pursuant to his personal interests and preferences rather than any consideration of AAHI’s best interests and contrary to the AAHI budgets approved by the Board;
- (d) Threatening, without any objective basis for doing so, to seek to recoup the \$18 million previously paid under the Grant Agreement if AAHI does not transfer funds to South Africa in accordance with Dr. Soon-Shiong’s personal requests and

desires, rather than based on any consideration of AAHI's best interests or its purpose and mission;

(e) Refusing to recognize the appointment of independent directors who have been appointed by the AAHI board and whose service on the board is needed to provide the organization with the independent oversight required by the board;

(f) Scheduling and conducting purported board meetings without abiding by the notice requirements under AAHI's by-laws and without allowing the participation of the entire AAHI board;

(g) Retaining, and asking the AAHI board to consider and rely upon, outside legal advisors who also represent Dr. Soon-Shiong in matters relating to the Grant Agreement, and who have represented him in other matters, and who are thus conflicted from providing the organization with independent legal advice.

75. As a result of Dr. Soon-Shiong's breaches of fiduciary duty AAHI is suffering, and will continue to suffer, irreparable harm absent declaratory and injunctive relief requiring that Dr. Soon-Shiong recuse himself from matters where he has a conflict of interest, recognizing the appointment of AAHI's additional independent directors and their right to participate in board matters, and invalidating any purported AAHI board actions taken without a properly constituted board. If allowed to persist, Dr. Soon-Shiong's breaches of fiduciary duty are also likely to thwart AAHI's ability to protect its rights under its contracts with ImmunityBio, as AAHI's board must be able to act independently and without interference from Dr. Soon-Shiong to protect its financial interests under those contracts, which account for a substantial portion of AAHI's budget.

76. To ensure AAHI's compliance with its by-laws and Washington law, and to allow AAHI directors to fulfill their fiduciary duties, AAHI also seeks the appointment of an independent corporate monitor to facilitate the expansion of AAHI's board to include additional independent directors, as needed.

77. To protect AAHI from further breaches of fiduciary duty by Dr. Soon-Shiong, to ensure that AAHI's decision making with respect to the protection of its rights under the Grant

1 Agreement and the ImmunityBio contracts proceeds under the supervision of a disinterested board,  
 2 and as a remedy for those breaches of fiduciary duty Dr. Soon-Shiong has already committed,  
 3 AAHI should be awarded injunctive relief removing Dr. Soon-Shiong from its board pursuant to  
 4 RCW 24.03A.625.

5 78. AAHI also seeks damages resulting from Dr. Soon-Shiong's intentional breaches  
 6 of his fiduciary duties, including those resulting from the need to incur legal fees and devote  
 7 additional corporate resources towards preventing those breaches, in an amount to be proven at  
 8 trial.

9 **SECOND CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY -- DECLARATORY**  
 10 **RELIEF**  
 11 **(Against Dr. Soon-Shiong)**

12 79. AAHI repeats and realleges the allegations set forth in paragraphs 1-74 above as  
 13 though fully set forth here.

14 80. There is a genuine dispute and controversy concerning the existence of a conflict  
 15 of interest that prevents Dr. Soon-Shiong from participating in AAHI board decision making  
 16 relating to the Grant Agreement.

17 81. There is also a genuine dispute and controversy concerning the rights of AAHI's  
 18 newly appointed board members, Dr. Cherrington and Dr. Kwong, to serve on the board and  
 19 participate in board decision making.

20 82. Finally, there is a genuine dispute and controversy regarding the validity of  
 21 purported board actions, including board meetings scheduled by Dr. Soon-Shiong conducted  
 22 without proper notice and without the participation of duly elected AAHI directors and any board  
 23 actions taken at those meetings.

24 83. Declaratory relief establishing the existence of a conflict of interest on the part of  
 25 Dr. Soon-Shiong with respect to the Grant Agreement and the ImmunityBio agreements requiring  
 26 his recusal from board decision making, the right of Dr. Cherrington and Dr. Kwong to fully  
 27 participate as AAHI board members, and the invalidity of any board actions taken without (i) a  
 properly constituted board and (ii) notice to and involvement of all qualified board members (and

1 without any participation by board members conflicted from participating) is necessary to enable  
2 AAHI and its board members to conduct themselves under the requirements of AAHI's by-laws  
3 and the fiduciary duties imposed by Washington law.

4 **THIRD CAUSE OF ACTION: BREACH OF CONTRACT**  
5 **(Against Chan Soon-Shiong Family Foundation)**

6 84. AAHI repeats and realleges the allegations set forth in paragraphs 1-79 above as  
7 though fully set forth here.

8 85. The Grant Agreement is a valid, enforceable, and fully integrated contract governed  
9 by California law. In the Grant Agreement, the parties agreed they each would have "full  
10 contractual and equitable standing to enforce the terms of the Agreement to the fullest extent  
11 permitted under the laws of the State of California."

12 86. The Grant Agreement calls for the Foundation to pay AAHI \$26 million between  
13 2022 and 2024.

14 87. AAHI has performed all its obligations under the Grant Agreement.

15 88. AAHI has also relied upon the Foundation's anticipated performance under the  
16 Grant Agreement by, *inter alia*, budgeting for 2024 based on the expectation the Foundation would  
17 continue to make the payments required by the Grant Agreement, as it had in 2022 and 2023.

18 89. The Foundation paid AAHI the first \$18 million required by the Grant Agreement  
19 in 2022 and 2023.

20 90. The Grant Agreement required the Foundation to pay AAHI \$8 million in March  
21 2024. The Foundation has not made that required payment and has refused to make that payment  
22 despite repeated requests from AAHI.

23 91. The Foundation has therefore breached the Grant Agreement and required AAHI  
24 to sustain \$8 million in damages, together with prejudgment interest at the 12% rate allowed by  
25 law.



1 **VI. DEMAND FOR JURY TRIAL**

2 92. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands  
3 a jury trial for all issues so triable.

4 **VII. PRAYER FOR RELIEF**

5 WHEREFORE Plaintiff demands a trial by jury and prays that it be awarded relief as  
6 follows:

- 7 (1) Declaratory and injunctive relief requiring Dr. Soon-Shiong to recuse himself from  
8 board decision making relating to the Grant Agreement and AAHI's contracts with  
9 ImmunityBio;
- 10 (2) Declaratory and injunctive relief recognizing the appointment of AAHI's  
11 independent directors with a full right to participate in board decision making;
- 12 (3) Injunctive relief appointing a corporate monitor to enable AAHI to organize an  
13 independent board and ensure that its directors are able to fulfill their fiduciary  
14 duties;
- 15 (4) Injunctive relief requiring Dr. Soon-Shiong's removal from the AAHI board based  
16 on his breaches of fiduciary duty and to ensure that AAHI's decision making with  
17 respect to the Grant Agreement and the ImmunityBio agreements proceeds under  
18 the supervision of a disinterested board of directors;
- 19 (5) Declaratory and injunctive relief confirming the invalidity of any board actions  
20 taken, or meetings conducted, at which Dr. Soon-Shiong was disqualified from  
21 participating due to a conflict of interest, in which duly appointed directors were  
22 not permitted to participate, or that were conducted without complying with the  
23 notice requirements under AAHI's by-laws;
- 24 (6) Damages in the amount proven at trial;
- 25 (7) Pre-judgment interest at the statutory rate on the \$8 million owed under the Grant  
26 Agreement;
- 27 (8) Attorneys' fees and expenses;

1 (9) and such other relief as may be deemed just and proper.

2 In accordance with the requirements of RCW 24.03.944 AAHI will give notice to the  
3 Washington Attorney General of its commencement of this action.

4  
5 Dated August 14, 2024.

Respectfully submitted,

6 By: /s/ Stephen E. Morrissey

7 Stephen E. Morrissey, WSBA #44710  
8 Lindsey Godfrey Eccles, WSBA #33566  
9 SUSMAN GODFREY L.L.P.  
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12 *Attorneys for Plaintiff*

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VERIFIED COMPLAINT - 31

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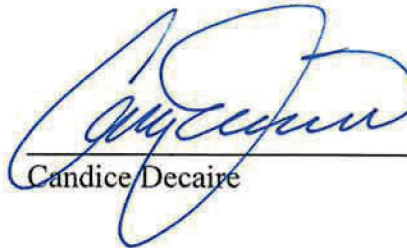
**VERIFICATION**

STATE OF WASHINGTON )  
 )  
COUNTY OF KING )

I, Candice Decaire, being duly sworn, deposes and says:


1. I am the Chief Strategy Officer and General Counsel for Plaintiff Access to Advance Health Institute.

2. I have read the foregoing Verified Complaint and know the contents thereof. All statements of fact therein are true and correct to my own knowledge insofar as it concerns the knowledge and activities of the AAHI Plaintiffs, and as to those matters stated to be alleged upon information and belief, or concerning the knowledge of the AAHI Plaintiff, I believe them to be true.

  
Candice Decaire

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 14<sup>th</sup> day of August, 2024, to certify which witness my hand and seal of office.



  
Typed Name: Jami Grounds  
Notary Public in and for the State of  
Washington, Residing at Seattle  
My Commission Expires: 4/12/26